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Protecting the Rights of Children in Iraq

**Responses to the Committee on the Rights of the
Child's List of Issues in Relation to:**

**The Combined Second to Fourth Periodic
Reports of Iraq**

Submitted By:

MADRE

**Organization of Women's Freedom in Iraq (OWFI)
The International Women's Human Right Clinic,
City University of New York School of Law**

Introduction

In recent months, Iraq has witnessed the takeover of several major cities and a sharp increase in sectarian violence in Baghdad. ISIL immediately moved to impose its fundamentalist agenda directly on the bodies of women. Even as its jeeps were still rolling into Iraq's second largest city, Mosul, ISIL fighters were ordering women and girls to cover themselves fully and stay at home. ISIL militants have performed grave human rights violations including execution, cutting-off hands, rape, sexual slavery, and flogging. Fatwas have been issued calling for sexual slavery in the form of "gifting" women and girls for the new Caliphate fighters, under the ISIL decree imposing "Jihad Al Nikah."

The threats to civilians, including women and girls posed by ISIL and other militia groups should be understood as a continuing outgrowth of the deterioration of girls and women's human rights over the last couple decades in Iraq. In Iraq today, girls and young women contend with myriad forms of discrimination and violence. While all Iraqi citizens face daily insecurity due to terrorism and civil strife, women and girls experience additional and unique forms of violence and discrimination because of their gender. Despite numerous provisions under Iraqi law that aim to protect girls and women's human rights, violence against women remains egregious and widespread. Iraqi women and girls have become increasingly vulnerable to rape and sexual slavery both within Iraq and neighboring countries. Gender-based violence remains pervasive within Iraq, including forced, under-aged, and temporary marriages, and honor killings. Comprehensively addressing the rights and humanitarian needs of women and girls fleeing ISIL-controlled territories requires addressing pre-existing threats to women and girls, embedded in Iraq's laws and social norms.

This report provides supplemental information for the Committee on the Rights of the Child (CRC) List of Issues to Iraq, on the questions of addressing honor crimes, forced, under-aged, and temporary marriages, children with disabilities and displacement. This Report was written by MADRE, the IWHR Clinic at CUNY Law School and the Organization of Women's Freedom in Iraq (OWFI) in consultation and collaboration with other Iraqi Women's organizations and activists. Because of the risk of retaliation to those who contributed to this report, including interviewees and activists, names and other identifying factors have been kept anonymous.

Honor Crimes and Honor Killings

- 5. Please provide detailed information on the measures taken by the State party to prevent and eliminate the killing of girls in the name of so-called "honour", which are reported to be on the rise in the State party. Please also indicate whether there is any intention to repeal the provision in the criminal code considering "honourable motives" to be a mitigating factor in crimes, including murder. Please inform on the measures taken, if any, to facilitate girls', in particular rural girls' access to the police, counseling services and legal services.***

Unfortunately, the Penal Code continues to permit honor considerations to mitigate sentences, sending a message to Iraqi women and society at large that such gross acts of violence are not only tolerated but culturally accepted. This has contributed to the exacerbation of honor crimes seen in recent months. In the context of the current crisis, traditional notions of “honor” have led to calls from some Iraqis for the government to bomb the schools and hospitals that serve as makeshift ISIL prisons, holding women and girls who are raped or sold into sexual slavery.¹ This plea has been made in an effort to kill rape victims and “save the honor” of the people from besieged towns.

In the absence of protection mechanisms and legal remedies, people threatened with honor crimes have limited recourse; some are forced to flee cities under siege with no guarantee of safe haven. Such girls and their mothers often do not have identification and cannot obtain legal identification without verification from a male family member. Similarly, this affects those escaping attempted honor killings, domestic violence, trafficking, forced prostitution or forced marriage who may not have identification at all. Without such identification documents, girls and their mothers cannot travel, find housing, obtain employment, access health services, or enroll in education institutions. As a result, women become stateless and are left more vulnerable to violence and discrimination. According to reports on the ground, thousands of stateless women reside in every major city in Iraq.

Since the interpretation of the law has been left open-ended to judges, abuse of the justice system has led Iraqi society at large to assume that such gross acts of violence shall be tolerated. The Implementation and Protection of Rights Unit at the Iraqi Ministry of Human Rights (MoHRC) indicated that between 2012 and 2013, the Supreme Judicial Council made a final decision in only ten cases of honor killings.² In 2000, the Kurdish regional government revoked the laws on mitigated sentences for honor crimes and a year later the government made them punishable by up to 15 years in prison. These measures, however, do not apply in the rest of Iraq. Attempts have been made to make honor killings punishable by life imprisonment or death throughout the state of Iraq but opposition has held that such killing of youth is permitted under Shari'a law.³

¹ MADRE, OWFI, Sorensen Center at CUNY Law School, *The Situation of Women and Girls in Iraq*, Submission to the Human Rights Council Special Session, Human Rights Situation in Iraq, 1 September 2014.

² MADRE, *Violence and Discrimination against Women*, submission to the Human Rights Council, Universal Periodic Review of Iraq, March 2014, ¶ 24.

³ Freedom House, *Women's Rights in the Middle East and North Africa 2010 - Iraq*, 3 March 2010, <http://www.refworld.org/docid/4b990123c.html>.

Iraq's national child protection policy does not cover children being subjected to crimes of honor. While the State is attempting to form a family protection police force, legal and counseling services need to be provided for children, especially girls and those from the rural and tribal areas, who have been victims or survived honor crimes. The State reported that it intends to adopt policies for the benefit of the child in accordance with the Convention, but neglects to specifically mention the adoption of protection mechanisms for the child victims of honor crimes and improving the accessibility of victims of such crimes to needed services.

According to a report issued by the United Nations High Commissioner for Human Rights, in April 2009 honor killings were prevalent in all parts of the country.⁴ In 2010, the Iraqi Ministry of Human Rights reported that 249 women and girls were murdered, including for reasons of "honor crimes." NGOs report the number of honor killings to be in the thousands. In 2013 in the Kurdistan region of the country, women and girls who committed suicide used self-immolation as a method of killing themselves and authorities dismissed certain of these cases as "accidents" instead of properly investigating them.⁵ In fact, in most cases of honor crimes the families of the victims bury the bodies and attribute their deaths to militia violence or other causes.

Furthermore, a joint report from the OHCHR and UNAMI Human Rights office described that Iraqi police and courts regularly consider the alleged sexual orientation or gender identity of a victim of violence as a mitigating factor when assessing responsibility for alleged crimes.⁶ This abuse and overt discrimination has created a culture of distrust of police and the justice system as a whole by LGBTI youth. Many cases go unreported as victims, or their families, fear that reporting attacks to authorities will result in further victimization or discrimination.⁷

I. Proposed Questions

1. What steps has the State taken to repeal or amend the existing criminal code to eliminate the mitigation of sentences based on honorable considerations or family relations?
2. What policies has the State adopted to provide legal and counseling services to children, especially rural girls, who survive honor crimes, and to increase their access to law enforcement for investigation and prosecution of so-called honor crimes?
3. Is the issue of honor crimes included in the child protection policy proposed by the State, and if so how does the policy aim to address it?
4. How does the State plan on addressing the lack of adequate identification for girls and their mothers fleeing honor crimes? What alternate accommodations are made to ensure their safety?

⁴ United States Department of State, *2009 Country Reports on Human Rights Practices – Iraq*, 11 March 2010, <http://www.refworld.org/docid/4b9e52ea6e.html>.

⁵ United States Department of State, *2013 Country Reports on Human Rights Practices – Iraq*, February 27 2014, <http://www.refworld.org/docid/53284ac85.html>

⁶ Human Rights Office of the High Commissioner for Human Rights, United Nations Assistance Mission for Iraq (UNAMI) Human Rights Office, *2010 Report on Human Rights in Iraq*, January 2011.

⁷ Human Rights Office of the High Commissioner for Human Rights, United Nations Assistance Mission for Iraq (UNAMI) Human Rights Office, *Report on Human Rights in Iraq: July – December 2013, June 2014*.

5. What measures is the State taking to provide safety and counseling for LGBTI youth?

Early and Forced Marriage

6. Please indicate the measures taken to combat early and forced marriage throughout the country. Please also provide updated information on the Ja'afari Personal Status Law and in particular on the provisions foreseen that would legalize the marriage of girls from the age of 9, and indicate how this is compatible with the State party's obligations under notably article 2, 6, 24(3) and 28 of the Convention.

The Government of Iraq states in its report to the Committee that roughly 1 in 5 women (19%) between the ages of 15 and 19 are married, with little variation between urban and rural areas.⁸ This rate is affected by the education of the mother (26% of women aged 15 – 19 whose mothers have little to no formal education are married compared to 10% of women aged 15 – 19 whose mothers are educated).⁹ Economic status seems to matter less given that 17% of women aged 15 – 19 from wealthy families are married compared to 19% of women from poor families.¹⁰ Six per cent of women aged 15 to 49 were married before the age of 15, and 24% of women aged 20 to 49 were married before the age of 18.¹¹ Moreover, the government suggests that the rate of early marriage has declined by comparing early marriage rates among age groups. While 29% of women aged 45 to 49 were married before 18, only 23% of women aged 20 to 24 were married before the age of 18.¹²

Although the Government of Iraq asserts that early marriage is declining, their statistics do not reflect the complete picture. In 2013, the Population Reference Bureau (“PRB”) said the decline in early marriage in Iraq has stopped.¹³ Proposed legislation threatens to further erode any progress made.¹⁴

Iraq cites to the difference in the rates between women aged 20-24 and 45-49 (23% and 29% respectively) to establish the decline in their State report.¹⁵ It is true that rates of early marriage since the 1970's were declining, and by 1997, only 15% of Iraqi girls were married before the age of 19.¹⁶ This rate remained the same in 2004.¹⁷ However, by 2007, 21% of Iraqi girls were

⁸ State Report at ¶ 227.

⁹ *Id.*

¹⁰ *Id.*

¹¹ *Id.* at ¶ 228.

¹² *Id.*

¹³ Farzaneh Roudi-Fahimi and Shaimaa Ibrahim, *Ending Child Marriage in the Arab Region*, Population Reference Bureau, May 2013. < <http://www.prb.org/Publications/Reports/2013/child-marriage-mena.aspx> >

¹⁴ Human Rights Watch, *Iraq: Don't Legalize Marriage for 9-Year-Olds*, March 12, 2014.

<http://www.hrw.org/news/2014/03/11/iraq-don-t-legalize-marriage-9-year-olds>.

¹⁵ State Report at ¶ 228.

¹⁶ Omar Jaffal, *Underage Marriage of Iraqi Girls Rises*, Al-Monitor, December 23, 2012, <http://www.al-monitor.com/pulse/ar/culture/2012/12/the-underage-marriage-crisis-in-iraq.html#>.

¹⁷ *Id.*

married before the age of 19.¹⁸ By 2011, 22% of Iraqi girls under the age of 18 were married.¹⁹ A Population Reference Bureau Policy Brief released in 2013, referring to statistics compiled in 2011, reported that 25% of 20 – 24 year old women in Iraq were married before the age of 18.²⁰

In the context of the current crisis, financial desperation and the absence of breadwinners in households where men have gone off to war has also led to a rise in forced, temporary and under-aged marriages. Temporary marriages had previously been very rare in Iraq, but have re-emerged under the growing influence of certain religious leaders. In these controversial marriages, girls are “married” in the presence of a religious figure for a fixed period of time, which can be as short as several hours. It does not protect girls from honor killings if the relationship is disclosed; neither does the man acknowledge his children who are born in such an arranged “marriage.” Suicides, especially by self-immolation, have spiked as girls protest forced marriage arrangements.²¹

The pending Ja’afari draft law threatens a number of women’s rights. It includes provisions that would lower the marrying age for girls to 9 years old, and would legalize marital rape by stating that a husband is entitled to have sex with his wife regardless of her consent. The draft law would also prevent women from leaving the house without permission from their husband, automatically grant custody for children over two years-old to the father in divorce cases, and significantly limit women’s rights in matters of inheritance. Justice Minister Hassan al-Shimmari introduced the draft law to the Council of Ministers on October 27, 2013. Although the Council said in December 2013 that it would wait until after the April elections to consider the proposed law, they approved it on February 25, 2014.²² The draft law is still currently pending, despite strong opposition from Iraqi civil society, including some religious leaders.

The proposed law aside, even Iraq’s current Personal Status Law does not do enough to prevent forced marriage or prosecute those that coerce. Forced marriage can be the result of a rape because the criminal code allows the rapist to avoid prosecution by marrying the victim.²³ In addition, girls can be subject to forced marriages through the practice of *diyya* (blood money), where a woman from the family of the killer is forced to marry into the family of the deceased.²⁴

Enforcement is limited because a situation is only reviewed at the initiative of the subject of coercion. A court will only review the case once the victim files a complaint.²⁵ In addition, the law does not provide mechanisms to ensure the safety of the victim after she files the complaint, which is important as victims filing may be subject to retribution from family members.²⁶

¹⁸ *Id.*

¹⁹ *Id.*

²⁰ See *Supra* note 13.

²¹ MADRE, OWFI, Sorensen Center at CUNY Law School, *The Situation of Women and Girls in Iraq*, Submission to the Human Rights Council Special Session, Human Rights Situation in Iraq, 1 September 2014.

²² *Id.*

²³ Pursuant to the Penal Code, art. 427

²⁴ Dlovan Barwari, *Iraqi Women Victimized by Tribal Marriage Customs*, Al-Monitor, September 12, 2013, <http://www.al-monitor.com/pulse/originals/2013/09/iraq-women-forced-marriage-tribal-customs.html>.

²⁵ *Id.*

²⁶ *Id.*

The State Report provides little information regarding the enforcement of the current Personal Status Law. Further, statistics provided by Iraq focus on early marriage, but neglect other forms of forced marriage. There is no information in the State Report on the number of complaints under the current law brought before the court by girls and young women, the number of successful complaints, or the frequency of marriages of girls and young women in the aftermath of a rape or through the practice of *diyya*.

I. Proposed Questions

1. What measures are being taken to withdraw the proposed Ja'afari Personal Status Law?
2. What measures are being taken to increase the enforcement and effectiveness of the current Personal Status Law? Please provide data on the current enforcement, particularly with respect to girls and young women.
3. What measures are being taken to protect the safety of girls and young women filing complaints under the current law?
4. Beyond legislation prescribing the marriage age, what affirmative measures has the State taken to address early and forced marriage, such as education and outreach? What measures has the State taken to address traditional practices that contribute to early and forced marriage, such as *diyya* or allowing a rapist to avoid prosecution by marrying the victim? Also, have efforts to keep girls in schools contributed to efforts to reduce child marriage? If so, how?

Children with Disabilities

14. With reference to paragraph 232 of the State party's report, please provide information on measures taken for the early identification of children with disabilities, as well as on their effective access to health, rehabilitation and social services taking into account the current situation. Please also indicate the measures taken to provide them with inclusive education. Please indicate the steps taken towards the establishment of programmes addressing children who suffer from ongoing conflict-related stress, as well as from post-traumatic stress syndrome.

Since its last report, Iraq states it has implemented multiple legislative safeguards for people with disabilities in accordance with its constitutional and international law obligations.²⁷ Recently Parliament passed the Disabled Welfare Commission Act and the Ministry of Labour and Social Affairs (MOLSA) is putting forth separate legislation for people with special needs.²⁸ Beyond legislative steps, Iraq states that its health services agencies provide disabled children with regular check-ups and all necessary treatment, analyses, and tests.²⁹ The Ministry of Health's strategic plan for 2009-2013 included the widening of the scope of programs for people with disabilities by 50%, though does not mention if the state met this goal³⁰. Additionally, Iraq noted specific services that it currently provides including thirteen rehabilitation centers for the handicapped (excluding the Kurdistan region), two hospitals for spinal injury rehabilitation and fourteen factories making prosthetic limbs and crutches (including the Kurdistan region). In addition, 708 children received wheelchairs throughout 2007 and 2008 (excluding the Kurdistan region).³¹ Iraq lists the accommodations that have been made for certain disabilities, such as providing some hearing-impaired children with cochlear implants³² and planning a safe route for entering and leaving school for physically impaired students.³³

In regards to inclusive education, Iraq allocates an entire section of the report to "Teaching the Disabled."³⁴ In the 2009 – 2010 academic year, there were 9,703 special education students enrolled in basic education,³⁵ which is three times the number of students in 2000.³⁶ To meet the needs of these students, Iraq recorded 1,073 special units in primary school, 1,312 teaching staff, and listed 899 schools with special education classes.³⁷ Iraq stated that it has designed a national strategy to end discrimination and foster "welcoming, all-embracing and inclusive" schools, and is prepared to implement it in 30 per cent of its schools.³⁸

²⁷ State Report at ¶¶ 232-33.

²⁸ *Id.* at ¶¶ 29-30.

²⁹ *Id.* at ¶ 232.

³⁰ *Id.* at ¶ 233.

³¹ *Id.*

³² *Id.* at ¶ 282.

³³ *Id.* at ¶ 283.

³⁴ *Id.* at ¶¶ 279-84.

³⁵ *Id.* at ¶ 279.

³⁶ *Id.*

³⁷ *Id.*

³⁸ *Id.* at ¶¶ 280-81.

According to the UN World Health Organization (WHO) “mental disorders” are among the leading causes of morbidity among Iraqis older than five.³⁹ The Ministry of Health (MoH) estimated in 2009 a minimum of one million disabled Iraqis out of a population of 30 million.⁴⁰ The Iraqi Association of Disability Organizations suggests that around 10 per cent of the population suffers from some kind of disability.⁴¹ The Ministry of Labour and Social Affairs (MoLSA) has been criticized as lacking the capacity and technical equipment to provide adequate services to disabled children.⁴² In 2011, Iraq only had 100 psychiatrists, or one for every 300,000 Iraqis.⁴³ Even for those who have access to services, the intense poverty often prevalent among people with disabilities prevents many of them from being able to pay for their own care without government assistance.⁴⁴

In 2011, the Council for Assistance to Refugee Academics conducted an extensive study on mainstream educational opportunities for children in Iraq, noting that children with mental health challenges attend school at approximately a 10% lower rate than their peers.⁴⁵ The study also found a lack of adequate services in early childhood development for disabled children.⁴⁶ There are also a lack of educational accommodations made for children with disabilities, and as a result many children in public schools have dropped out because of insufficient access to school buildings, absence of appropriate learning materials, and shortage of teachers qualified to work with children with disabilities.⁴⁷ There continue to be reports of social stigma towards children with disabilities⁴⁸ despite the government’s stated effort to create an inclusive environment.⁴⁹

Iraq has a higher percentage than other countries of persons with disabilities who develop disabilities later in life as a result of war or birth defects.⁵⁰ The U.S. military dumping sites have produced negative effects on attendant communities. For example, the town of Hawija is located near a U.S. Army base where there are over 600 cases of children with disabilities among a

³⁹ Human Rights Watch, *At a Crossroads: Human Rights in Iraq Eight Years after the US-Led*, February 21 2011. <http://www.refworld.org/docid/4d64e1d82.html>

⁴⁰ Abbas Sarhan, *Disabled in Karbala: Iraq abandons its handicapped*, Niqash, June 6, 2011. <http://www.niqash.org/articles/print.php?id=2849&lang=en>

⁴¹ Iraqi Association of Disability Organizations, *Giving Voice to Persons with Disabilities in Iraq*, <http://www.globalgiving.org/pfil/7415/projdoc>

⁴² *Persons with Disabilities in Iraq*, BRIDGING THE DIVIDE, <http://www.bridging-the-divide.org/countries/Iraq> (last visited 6 October 2014).

⁴³ Leila Fadel, *Iraq Ill-Equipped to Cope with an Epidemic of Mental Illness*, Washington Post, June 18, 2010. <http://www.washingtonpost.com/wp-dyn/content/article/2010/06/17/AR2010061706034.html>

⁴⁴ Sarhan, *Supra* note 40.

⁴⁵ Alison Alborz et al., *A Study of Mainstream Education Opportunities for Disabled Children and Youth and Early Childhood Development in Iraq* 37 (2011).

<<https://www.escholar.manchester.ac.uk/api/datastream?publicationPid=uk-ac-man-scw:131680&datastreamId=FULL-TEXT.PDF>>

⁴⁶ *Id.*

⁴⁷ United States Department of State, *2013 Country Reports on Human Rights Practices – Iraq*, February 27 2014. <http://www.refworld.org/docid/53284ac85.html>

⁴⁸ *Id.*

⁴⁹ *Id.*

⁵⁰ United Nations Assistance Mission for Iraq, *People With Different Abilities*, Martin Kobler, December 20, 2012. <<http://reliefweb.int/report/iraq/people-different-abilities>>

population of 109,000.⁵¹ Land mines and explosive remnants disproportionately impact children; by 2011, it was estimated that 25% of all victims affected by land mines and explosives were children under the age of 14.⁵² Many of these children have not received rehabilitation or support for reintegration into their community.⁵³ In addition to abandoned explosives, ground contamination appears to be the source of numerous disabilities for children.

Iraq has initiated some measures to address the inclusion and special needs of people with disabilities, however even these measures continue to fall short. In 2006, Iraq launched a social welfare program to financially support Iraqis with disabilities,⁵⁴ however this program ended up cutting 10,000 potential beneficiaries from receiving aid in 2012.⁵⁵ In 2013 a Commission for Persons with Disabilities and Special Needs was formed,⁵⁶ yet its impact remains to be seen.⁵⁷

I. Proposed Questions

1. How does the State determine and provide all the necessary treatments for children with disabilities as it states in its report, and how are these treatments administered? What types of treatments are included, and how does it ensure all children with disabilities have access to such treatments?
2. How does the State mitigate the impact of ground contamination surrounding communities and anti-personnel mines to prevent children from becoming contaminated, and potentially disabled?
3. What measure has the government taken to identify, prevent and treat children with disabilities at earlier ages and stages?
4. Provide data as to the State's plan on enhancing infrastructure to accommodate physical disabilities in educational settings. Does the government plan to increase these accommodations, and if so, how and where?
5. Provide data as to the establishment and effectiveness of programs for children who suffer from Post Traumatic Stress Disorder (PTSD). How does the government plan on providing accommodations and treatments to children diagnosed with and affected by PTSD?

⁵¹ Organization of Women's Freedom in Iraq, *U.S. Army Base Transforms the Town of Hawijah into a Crisis Zone: Hundreds of Paralyzed Children and Teenagers with Cancer*, August 23, 2011.

<<http://warresisters.wordpress.com/iraq-reports-analysis-and-interviews-on-movement-building-now/owfi-report-hawijah-in-crisis-and-the-legacy-of-us-bases/>>

⁵² Landmine & Cluster Munition Monitor, *Iraq*, October 26, 2012. http://www.the-monitor.org/custom/index.php/region_profiles/print_profile/496#_ftnref12

⁵³ Human Rights Watch, *World Report 2012: Iraq*, January 2012. <http://www.hrw.org/world-report-2012/world-report-2012-iraq>

⁵⁴ See supra note 40.

⁵⁵ See Supra note 47.

⁵⁶ *Id.*

⁵⁷ *Id.*

Internally Displaced Persons

17. With reference to paragraph 296 of the State party report, please provide information on assistance provided to the increasing number of internally displaced children and their families, in particular regarding shelter, access to food, clean drinking water and sanitation, health services and education. In so doing, please indicate whether the special team that has been formed by the Ministry of Labour and Social Affairs, has been able to establish plans to provide further help to internally displaced families.

The Government of Iraq reports that it has taken a variety of measures to assist displaced children and their families. The Ministry of Labour and Social Affairs (MoLSA) has “formed a team to look into the possibility of providing aid to these families,” although the team’s name, organizational structure, agenda, and operational capacity are unclear from the Report.⁵⁸ Families that choose to return to Iraq after fleeing to another Arab country as refugees are issued ration cards by the Iraqi government.⁵⁹ However, the government estimates that 70 per cent of internally displaced families in al-Anbar, Najaf, Baghdad and Dhi Qar have no access to ration cards, and only 18 per cent of displaced families have successfully transferred their ration quotas to their new locations.⁶⁰

Educational access in Iraq is often dependent on a family providing the necessary documentation, which displaced families often do not have. Furthermore, displacement camps are often located in remote areas; the only camp in Najaf Governorate, for example, is located about 30 km from the nearest school.⁶¹ Many displaced children are obliged to leave school and start working in order to assist their financially strained families.

The Ministry of Migration and Displaced (MoMD) provides installment grants to displaced families, while the Ministry of Health (MoH) is providing treatment and preventative services to displaced persons camps throughout the country.⁶² The State Party report does not provide further information as to how many children and families have benefited from installment grants, or have received treatment from Ministry of Health services. The report also does not provide more detailed information about the extent or type of health services provided at displaced persons camps, which camps specifically benefit from those services, and how many internally displaced families live within, or have access to, those camps. The report acknowledges that many internally displaced families do not have access to qualified medical professionals, health centers, or medicines.⁶³

⁵⁸ *Id.* at ¶ 296.

⁵⁹ *Id.* at ¶ 287.

⁶⁰ *Id.* at ¶ 291.

⁶¹ *Id.* at ¶ 294.

⁶² *Id.* at ¶ 289.

⁶³ *Id.* at ¶ 292.

The Iraqi Ministry of Municipalities and Public Works (IMoMPW) has connected displacement camps to the water network, and performed maintenance work on water tanks in the camps.⁶⁴ Despite this, the report acknowledges that displaced children in Iraq “are living with their families at the lowest level of human existence in places unfit for human habitation, where overcrowding (defined as more than three persons to a room) is 88 per cent.”⁶⁵ This is partially due to the lack of temporary housing available to them; there are only two displacement camps in Baghdad and only twelve countrywide, where displaced families live in tents.⁶⁶ Families that do not find shelter in a camp often live in abandoned or damaged public buildings, local schools, or mud or reed huts in rural areas.⁶⁷ These accommodations often fail to meet minimum health requirements, including access to clean water and sewage disposal.

Displacement in the Current Conflict

Reports on recent events in Iraq demonstrate that the number of internally displaced families is now far far higher than the 2007 numbers cited in Iraq’s Report. The UNHCR reported that an estimated 2.76 million individuals were displaced in Iraq in 2009 alone, approximately 1.2 million of whom were displaced previous to 2006.⁶⁸

An additional 1.8 million citizens have been displaced since January 2014, due to violence between armed opposition groups in northern and central Iraq.⁶⁹ Since June 2014, roughly 800,000 of those displaced persons have entered Iraqi Kurdistan.⁷⁰ The Internal Displacement Monitoring Centre (IDMC) estimates that as of October 9, 2014, over 2,850,000 Iraqis have been displaced. According to reports from the International Organization for Migration (IOM), as of September 28, 2014, the Kurdish region has been hosting approximately 49 per cent of all IDPs, while the remaining half, roughly 903,000, has spread throughout the country. Almost 20 per cent of the entire IDP population has taken refuge in Anbar governorate and displacement towards, as well as from southern governorates seems to be increasing.⁷¹

As parts of the country have been overrun by the Islamic State of Iraq and the Levant (ISIL) with violent battles between militant and government forces, many displaced Iraqis are cut off from humanitarian supplies. The Iraqi Air Force has been providing limited assistance through

⁶⁴ *Id.* at ¶ 296.

⁶⁵ *Id.* at ¶ 298.

⁶⁶ *Id.*

⁶⁷ *Id.*

⁶⁸ United Kingdom Home Office, *Iraq Bulletin: Treatment of Persons Returning to Iraq, Including Failed Asylum Seekers; The Situation of Internally Displaced Persons and Procedures to Re-obtain Documentation to Access Services and Facilitate Internal Movement*, April 16, 2012.

⁶⁹ UN Office for the Coordination of Humanitarian Affairs, *UN Humanitarian Chief calls for more shelter and protection for displaced Iraqis ahead of winter*, September 14, 2014. < <http://reliefweb.int/report/iraq/un-humanitarian-chief-calls-more-shelter-and-protection-displaced-iraqis-ahead-winter> >

⁷⁰ ShelterCluster.org and REACH, *Shelter and CCCM Cluster Rapid Assessment; Iraq Internal Displacement Crisis Assessment Report, September 10, 2014*. < https://www.humanitarianresponse.info/sites/www.humanitarianresponse.info/files/assessments/REACH_IRO_Report_ShelterCCCMClusterAssessment_Sep2014.pdf >

⁷¹ Internal Displacement Monitoring Centre, *Iraq IDP Figure Analysis*, October 9, 2014. < <http://www.internal-displacement.org/middle-east-and-north-africa/iraq/figures-analysis/> >

aidrops, but physical access to occupied territories or areas under siege is often limited.⁷² The increased numbers of internally displaced families often results in food shortages and food price increases within their host communities. Where armed opposition groups control a local area, distribution of food by NGOs is especially problematic.⁷³ Many displaced families also have difficulty accessing government food rations, due to lengthy procedures for registration or transfer with the public food distribution system. The registration usually requires that displaced families provide identification documents that they often lack, while transfer procedures require families to complete paperwork in their original place of residence.⁷⁴ Those who are able to register often have to wait months before receiving their rations.⁷⁵

While about 60 per cent of displaced persons are housed by family or live in rented accommodation, an estimated one-third live in collective shelters, tents, unfinished buildings, or in open air.⁷⁶ Many internally displaced families within Iraq reside in squatter settlements and not within the displaced persons camps described in paragraph 296 of the State Report.⁷⁷ These squatter settlements lack basic necessities, such as clean water, electricity, and sanitation.⁷⁸ Widespread lack of access to heating systems, blankets, and winter clothing make the upcoming winter a growing concern for many displaced families.⁷⁹ A 2014 assessment revealed 65 per cent of displaced households had no access to a heating system, while only two per cent of the tents used to shelter displaced families met the minimum winterization standard requirements.⁸⁰

In the September 2014 Resolution S-22/1, the Human Rights Council urges “all parties to protect civilians, in particular women and children, to respect their human rights and to meet their basic needs, which requires providing safe access for humanitarian and medical services to all affected populations.”⁸¹ On September 19, in a statement made by the Secretary-General’s Special Representative for Iraq at the UN Security Council Ministerial Debate on Iraq, Nikolay Mladenov noted that the “pressure on local communities across Iraq is growing” and the continuing influx of 1.8 million displaced Iraqis has created “a massive shelter crisis.” “With winter fast approaching,” Mr. Mladenov said, “immediate measures must be enacted.”⁸²

⁷² Integrated Regional Information Networks (IRIN), *Analysis: Iraq’s forgotten displaced*, August 22, 2014. <<http://www.irinnews.org/report/100524/analysis-iraq-s-forgotten-displaced>>

⁷³ UN Office for the Coordination of Humanitarian Affairs, *Iraq IDP Crisis Situation Report No. 10*, August 30 – September 5, 2014. <<http://reliefweb.int/sites/reliefweb.int/files/resources/Iraq%20IDP%20CRISIS%20Situation%20Report%20No10.pdf>>

⁷⁴ Norwegian Refugee Council/Internal Displacement Monitoring Centre, *Iraq: a Displacement Crisis*, March 30, 2014. <http://www.refworld.org/publisher,IDMC,COUNTRYREP,IRO,4678d8872,0.html>

⁷⁵ *Id.*

⁷⁶ See *supra* note 70.

⁷⁷ Human Rights Watch, *World Report 2014: Iraq*, January 2014. <<http://www.hrw.org/world-report/2014/country-chapters/iraq>>

⁷⁸ See *supra* note 69.

⁷⁹ See *supra* note 70.

⁸⁰ *Id.*

⁸¹ Human Rights Council, *The human rights situation in Iraq in the light of abuses committed by the so-called Islamic State in Iraq and the Levant and associated groups*, U.N. Doc A/HRC/RES/S-22/1, September 3, 2014.

⁸² UN News Centre, *Iraq: Security Council urges international support for Government’s combat against insurgents*, September 19, 2014. <<http://www.un.org/apps/news/story.asp?NewsID=48755#.VDxCG9TF98M>>

In the absence of Government sponsored services and legal remedies to families--- primarily women and their children---local Iraqi women’s NGOs are at the forefront of providing necessary services. Local Iraqi women’s organizations are mobilizing an emergency response to protect people at severe risk as the threat of sectarian violence grows. They are in the best position to reach displaced families and to provide shelter and aid and their efforts must be supported. However it remains illegal in Iraq for NGOs to provide shelter to displaced persons.⁸³ Despite this, many women’s NGOs have stepped up to provide much needed shelter to the most marginalized victims--- mothers and their children who are fleeing violence from the conflict.⁸⁴ However their efforts remain illegal and most of their work operates clandestinely.⁸⁵

According to Human Rights Watch, the Iraqi Government “has no plan” for the return of internally displaced Iraqi citizens.⁸⁶ The MoMD does not offer a “comprehensive assistance package” for the displaced, and there is little coordination between the MoMD and the Kurdistan Regional Government’s Department of Displacement.⁸⁷ Internally displaced populations report that what assistance is offered by the central government is not distributed equitably or systematically.⁸⁸ Much of the MoMD’s strategy for addressing internal displacement depends on issuing cash grants of \$800 to encourage displaced persons to return to their homes, or to facilitate their long-term settlement in new communities.⁸⁹ However, these cash grants are often difficult to obtain, since the Ministry requires displaced families to provide identification documentation in order to receive the funds.⁹⁰

Apart from cash grants, most efforts aimed at providing for internally displaced persons occur at the local level. The Ministry of Human Rights (MoHR) instructed provincial offices to establish “Eviction Order Committees” – comprised of officials from the MoHR, MoMD, and Provincial Councils, UNHCR and the International Rescue Committee – to collect information on informal settlements, and to submit that information to the Minister to halt eviction proceedings against displaced persons.⁹¹ Local authorities are expected to use this information to improve conditions within these informal settlements.⁹²

The Kurdish Regional Government is in the process of building fourteen camps to serve the internally displaced people in the region. But Human Rights Watch reports that those planned camps will only serve half the displaced, and their construction will take months. Furthermore, the Kurdish government lacks the financial resources required to supply the displaced population

⁸³ MADRE, OWFI, Sorensen Center at CUNY Law School, *The Situation of Women and Girls in Iraq*, Submission to the Human Rights Council Special Session, Human Rights Situation in Iraq, 1 September 2014.

⁸⁴ *Id.*

⁸⁵ *Id.*

⁸⁶ See *supra* note 77.

⁸⁷ International Rescue Committee (IRC), *A Tough Road Home: Uprooted Iraqis in Jordan, Syria and Iraq*, February 2010.

⁸⁸ *Id.*

⁸⁹ See *supra* note 7.

⁹⁰ See *supra* note 87.

⁹¹ See *supra* note 7.

⁹² *Id.*

with food, water, electricity, or sanitation services.⁹³ The Iraqi Government has blocked Iraqi Kurdistan from receiving central government funding for displaced people in the region.⁹⁴

Children's access to education has also been put in jeopardy by the growing displacement crisis within Iraq. In August 2014, the Islamic State drove members of the Yazidi minority group from the Sinjar area in Iraq to seek shelter in Iraqi Kurdistan. These families were housed in over 653 local schools in the Dohuk governorate, where displaced persons sleep in classrooms, hallways, and courtyards.⁹⁵ The local government estimates that 130,000 internally displaced people are living in the Dohuk schools. The school year under the Kurdish Regional Government was due to start on September 10, but hundreds of schools were unable to open because they are occupied by displaced communities. The Kurdish government has repeatedly delayed the start of school, and aid organizations and government officials predict it will be months before the schools can reopen.⁹⁶ According to the United Nations, an estimated 2,000 schools across Iraq are being used to shelter internally displaced persons, a practice that often compromises children's access to education.⁹⁷

Many internally displaced families still lack access to basic health care. Kurdish Regional Governorates that have received large numbers of displaced families in the last year are experiencing medicine shortages for chronic illnesses, and local care facilities are often understaffed. The United Nations Office for the Coordination of Humanitarian Affairs has identified a "critical gap" in extending health services to displaced families living in open areas and unfinished buildings.⁹⁸

Sources also point to a number of security threats facing internally displaced families, and the Iraqi security forces' inability to adequately respond to or prevent those threats. In July 2013, Asai'ib Ahl al-Haq, a pro-government Shia militia, distributed leaflets to Sunni residents of the Moqdadeya area of Diyala province, threatening them with death. The threats prompted hundreds of families to flee the area, and Diyala residents reported that the Iraqi Government security forces did little to protect them or assist in their return to their homes.⁹⁹ Some children have been forcibly separated from their families as a result of the violence. For example, Islamic State forces left 65 children between the ages of five and 17 years at an orphanage in Mosul City. The orphanage has struggled to provide food, baby milk, and clothes to the children.¹⁰⁰ Furthermore, access restrictions in Islamic State controlled territories make assessment of the needs of internally displaced families, and transport humanitarian aid to the area, difficult.¹⁰¹

⁹³ Azam Ahmed, *With Schools Doubling as Shelters in Northern Iraq, Classes Wait*, New York Times, September 7, 2014. http://www.nytimes.com/2014/09/08/world/middleeast/classes-wait-in-northern-iraq-as-schools-double-as-shelters.html?_r=1>

⁹⁴ Human Rights Watch, Fred Abrahams, *From Schools to Shelters in Iraq*, September 9, 2014. <http://www.hrw.org/news/2014/09/09/schools-shelters-iraq>

⁹⁵ *Id.*

⁹⁶ See *supra* note 93.

⁹⁷ See *supra* note 94.

⁹⁸ See *supra* note 69.

⁹⁹ See *supra* note 77.

¹⁰⁰ See *supra* note 73.

¹⁰¹ *Id.*

A lack of civil documentation, and the difficulty of obtaining that documentation, presents a further burden on internally displaced families. The Iraqi Nationality Certificate and the Iraqi Civil Status Identification are the main identification documents in Iraq, and are required for “any kind of interaction with the authorities, such as an application for a food ration card, school registration, and the issuance of death and birth certificates.”¹⁰² Access to government benefits, including financial assistance, depends on a displaced family’s ability to register by providing identification documents. A 2010 report from the International Rescue Committee indicates that internally displaced persons are likely to lack these required documents, because they were forced to flee their homes quickly.¹⁰³ Without these documents, it is difficult for internally displaced families to obtain food rations or to register children for school.

I. Proposed Questions

1. What steps is the Government taking to amend the shelter law and allow NGOs to run private shelters for displaced families and individuals, particularly given the urgent need for safe housing in context of the current crisis?
2. Given the fact that many internally displaced Iraqis live in shelters, tents, unfinished buildings or the open air, has the Government considered amending the shelter law to allow NGOs to provide shelter for displaced persons? If not, what alternate provisions are being considered to ensure all IDPs have secure shelter?
3. Does the Government plan to take any steps towards facilitating registration and food ration transfer for internally displaced persons who lack identification documentation? What, if any, measures have the Government already taken to facilitate registration and access to food ration cards? Has the Government implemented procedures that would allow displaced individuals to obtain their identification documents more easily?
4. What, if any, action does the Government plan to take to provide for the growing numbers of displaced Iraqi families and children in Iraqi Kurdistan? Why has the Government withheld funds from the Kurdish Regional Government to assist displaced families in Iraqi Kurdistan? How does the Government plan to address the lack of coordination between the Ministry of Migration and Displacement and the Kurdish Regional Government?
5. How does the Government plan to provide educational facilities to children in light of the fact that over 2,000 schools are currently used to house displaced persons? What measures does the government plan to take to reopen these schools, and to relocate displaced children and families to more permanent accommodation? Does the Government plan to construct more displacement camps to house this population?
6. How many displaced children have access to health services at displacement camps? How many displaced Iraqi children have received treatment from Ministry of Health

¹⁰² See *supra* note 68.

¹⁰³ See *supra* note 87.

programs at the displacement camps? What health services do the programs provide? Do displaced families living outside of the camps have access to these health services? If not, does the Ministry of Health have a plan to extend health care to displaced persons living in more remote areas, living in open spaces, or living in unfinished buildings? How does the Government plan to ensure displaced populations, including children, outside the camps have access to basic health services?